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09/421,806	10/20/1999	MARCUS WAGNER	1434P/BC9990	4629

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EXAMINER

LEE, CHI HO A

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/421,806

Applicant(s)

WAGNER, MARCUS

Examiner

Andrew Lee

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10/3/03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-13, 16, 26-31, 34, 37 and 38 is/are allowed.
- 6) ☒ Claim(s) 1-7, 14, 17-25, 32, 35, 36 and 39-42 is/are rejected.
- 7) ☒ Claim(s) 15 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 6 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re Claim 3, line 4 recites and repeats the same limitation "(a3ii) subtracting from the GSF bandwidth requirements" as recited in Claim 2, line. This limitation should be deleted or amended to further limit what the "subtracting..." limitation.

Same reasoning applied for the Claim 21.

Re Claim 6, it is unclear what is meant by "(a1iB reporting an error if the updating does not occur often enough."

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-7, 14, 17-25, 32, 35, 36, 39-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Egawa et al U.S. Patent Number 5,745,694.

Re Claims 1, 19, 39-42, Egawa teaches in fig. 3a, step 300 pertains to a reservation system for receiving a reservation request from a video terminal user consisting of a requested bandwidth, start and end time period (See col. 5, lines 3-12), wherein the requested time span (a current time plus a maximum duration...) is the duration for a file transmission task; step 303 determines whether the requested bandwidth is available by checking resource databases 104 (determining an available bandwidth); if available step 306 notify user of grant of request and allocates a portion of the available bandwidth (See col. 5, lines 60 +) wherein fig. 2a Reservation RQST Database 103 teaches plurality of requests (at least one file...different amount of bandwidth).

Re Claims 2, 7, 20, 25 refer to Claim 1, fig. 1 teaches the Reservation system 100 (a bandwidth allocation scheduler) comprising plurality of databases, i.e., resources and requests tables. See fig. 2B of the database 104 that indicates Maximum Usable Bandwidth (initialing a GSF) of links (obtaining plurality configuration parameters); fig. 2a 103 indicates the time span for the user request associated with the requested bandwidth and fig. 2c indicating the total bandwidth usage; fig. 6b teaches step 610 for subtracting bandwidth of the TOD slot (a maximum transmission duration) from link capacity (See col. 8, lines 1-12).

Re Claims 3, 21, refer to Claim 2, wherein database 103 records the requested time span and the bandwidths and logging current usage in Control data memory 106 of fig. 2c.

Re Claims 4, 22, 32 refer to Claim 1, fig. 3D checks the completion of the time interval and updates data in database 103.

Re Claims 5, 23, refer to Claim 1, the admission controller sequentially reads the databases 103 and 104 for allocating bandwidth for the scheduled requests.

Re Claims 6, 14, 24, refer to Claim 1, wherein bandwidth availability is updated upon completion and allocation of the bandwidth.

Re Claims 17, 18, 35, 36 refer to Claim 1, wherein database 103 is time dependent (back to back duration)

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Egawa et al U.S. Patent Number 5,745,694 in view of Mcfadden et al U.S. Patent Number 6,614,804.

Re Claim 43, refer to Claim 1, Egawa fails to explicitly teach the transmission of file is via a satellite transponder. However, Mcfadden et al teaches in fig. 1, a satellite transponder 14 coupled to a content server for allocating bandwidth for transmission of PPP video contents to the clients. One skilled in art would have been motivated by Mcfadden to transmit a file via satellite transponder to enable video reception to clients

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in areas where terrestrial cannot reach. Therefore, it would have been obvious to one ordinary skilled teaching of Mcfadden et al into the teaching of Egawa.

***Allowable Subject Matter***

7. Claims 15 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

In combination with Claims 1, 14, and 15; 19, 32, and 33, prior art fails to teach the constructing a payback strip from the portion of the available bandwidth allocated to the at least one file transmission task.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 703-305-1500. The examiner can normally be reached on Monday to Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 703-308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

AL

November 25, 2003

